

with the highest classification of any information contained in them, protected at that level, and if otherwise appropriate, destroyed when no longer needed. When any of the following conditions applies, working papers shall be controlled and marked in the same manner prescribed for a finished document at the same classification level:

- (1) Released by the originator outside the originating activity;
- (2) Retained more than 180 days from the date of origin; or
- (3) Filed permanently.

(f) *Other material.* Bulky material, equipment and facilities, etc. shall be clearly identified in a manner that leaves no doubt about the classification status of the material, the level of protection required, and the duration of classification. Upon a finding that identification would itself reveal classified information, such identification is not required. Supporting documentation for such a finding must be maintained in the appropriate security facility.

(g) *Unmarked materials.* Information contained in unmarked records, or presidential or related materials, and which pertains to the national defense or foreign relations of the United States and has been maintained and protected as classified information under prior orders shall continue to be treated as classified information under the Order, and is subject to its provisions regarding declassification.

**§ 2001.24 Declassification markings [1.5, 1.6, 3.3].**

(a) *General.* A uniform security classification system requires that standard markings be applied to declassified information. Except in extraordinary circumstances, or as approved by the Director of ISOO, the marking of declassified information shall not deviate from the following prescribed formats. If declassification markings cannot be affixed to specific information or materials, (e.g., agencies using automated information systems, special media, microfilm) the originator shall provide holders or recipients of the information with written instructions for marking the information. Markings shall be uniformly and conspicuously applied to leave no doubt about the declassified

status of the information and who authorized the declassification.

(b) The following markings shall be applied to records, or copies of records, regardless of media:

- (1) The word, "Declassified;"
- (2) The name or personal identifier, and position title of the declassification authority or declassification guide;
- (3) The date of declassification; and
- (4) The overall classification markings that appear on the cover page or first page shall be lined with an "X" or straight line. An example might appear as:

**SECRET**

Declassified by David Smith, Chief, Division 5, August 17, 2005

**Subpart C—Declassification**

**§ 2001.30 Automatic declassification [3.3].**

(a) *General.* All departments and agencies that have original classification authority, or previously had original classification authority, and maintain records appraised as having permanent historical value that contain information classified by that agency shall comply with the automatic declassification provisions of the Order. All agencies with original classification authority shall cooperate with NARA in managing automatic declassification of accessioned Federal records, presidential papers and records, and donated historical materials under the control of the Archivist of the United States.

(b) *Presidential records.* The Archivist of the United States shall establish procedures for the declassification of presidential or White House materials transferred to the legal custody of the National Archives of the United States or maintained in the presidential libraries.

(c) *Classified information in the custody of contractors, licensees, certificate holders, grantees or other authorized private organizations or individuals.* Pursuant to the provisions of National Industrial Security Program, agencies must provide security classification/declassification guidance to such entities or

individuals who possess classified information. Agencies must also determine if classified Federal records are held by such entities or individuals, and if so, whether they are permanent records of historical value and thus subject to section 3.3 of this Order. Until such a determination has been made by an appropriate agency official, the classified information contained in such records shall not be subject to automatic declassification and shall be safeguarded in accordance with the most recent security classification/declassification guidance provided by the agency.

(d) *Transferred information.* In the case of classified information transferred in conjunction with a transfer of functions, and not merely for storage or archival purposes, the receiving agency shall be deemed to be the originating agency.

(e) *Unofficially transferred information.* In the case of classified information that is not officially transferred as described in paragraph (d), of this section, but that originated in an agency that has ceased to exist and for which there is no successor agency, the Director of ISOO will designate an agency or agencies to act on provisions of the Order, with the concurrence of the designated agency or agencies.

(f) *Processing records originated by another agency.* When an agency uncovers classified records originated by another agency that appear to meet the criteria for the application of the automatic declassification provisions of the Order, the finding agency should alert the originating agency and seek instruction.

(g) *Unscheduled records.* Classified information in records that have not been scheduled for disposal or retention by NARA is not subject to section 3.3 of the Order. Classified information in records that are scheduled as permanently valuable when that information is already more than 20 years old shall be subject to the automatic declassification provisions of section 3.3 of the Order five years from the date the records are scheduled. Classified information in records that are scheduled as permanently valuable when that information is less than 20 years old shall be subject to the automatic declassification

provisions of section 3.3 of the Order when the information is 25 years old.

(h) *Foreign government information.* The declassifying agency is the agency that initially received or classified the information. When foreign government information appears to be subject to automatic declassification, the declassifying agency shall determine whether the information is subject to a treaty or international agreement that would prevent its declassification at that time. The declassifying agency shall also determine if another exemption under section 3.3(b) of the Order, such as the exemption that pertains to United States foreign relations, may apply to the information. If the declassifying agency believes such an exemption may apply, it should consult with any other concerned agencies in making its declassification determination. The declassifying agency or the Department of State, as appropriate, should consult with the foreign government prior to declassification.

(i) *Assistance to the Archivist of the United States.* Agencies shall consult with NARA before establishing automatic declassification programs. Agencies shall cooperate with NARA in developing schedules for the declassification of records in the National Archives of the United States and the presidential libraries to ensure that declassification is accomplished in a timely manner. NARA will provide information about the records proposed for automatic declassification. Agencies shall consult with NARA before reviewing records in their holdings to ensure that appropriate procedures are established for maintaining the integrity of the records and that NARA receives accurate information about agency declassification actions when records are accessioned into NARA. NARA will provide guidance to the agencies about the requirements for notification of declassification actions on accessioned records, box labeling, and identifying exempt information in the records.

(j) *Use of approved declassification guides.* Approved declassification guides are a basis for the exemption from automatic declassification of specific information as provided in section

3.3(d) of the Order. These guides must include additional pertinent detail relating to the exemptions described in section 3.3(b) of the Order, and follow the format required of declassification guides for systematic review as described in § 2001.32 of this part. In order for such guides to be used in place of the identification of specific information within individual documents, the information to be exempted must be narrowly defined, with sufficient specificity to allow the user to identify the information with precision. Exemptions for general categories of information will not be acceptable. The actual items to be exempted are specific documents. All such declassification guides used in conjunction with section 3.3(d) of the Order must be submitted to the Director of ISOO, serving as Executive Secretary of the Interagency Security Classification Appeals Panel, for approval by the Panel.

(k) *Automatic declassification date.* No later than December 31, 2006, all classified records that are more than 25 years old and have been determined to have permanent historical value will be automatically declassified whether or not the records have been reviewed.

(l) *Exemption from Automatic Declassification.* Agencies may propose to exempt from automatic declassification specific information, either by reference to information in specific records or in the form of a classification or declassification guide, within five years of, but not later than 180 days before the information is subject to automatic declassification. The agency head or senior agency official, within the specified timeframe, shall notify the Director of ISOO, serving as the Executive Secretary of the Interagency Security Classification Appeals Panel, of the specific information being proposed for exemption from automatic declassification.

(m) *Delays in the onset of automatic declassification.* (1) Microforms, motion pictures, audiotapes, videotapes, or comparable media. An agency head or senior agency official, either through its agency's declassification plan, or within 90 days of the decision, must notify the Director of the Information Security Oversight Office of a decision to delay the onset of automatic declassification

for classified information contained in this type of media. Agencies may delay the date for automatic declassification for up to five additional years for these types of special media. Information contained in special media that has been referred shall be automatically declassified five years from the date of notification or 30 years from the date of origination of the special media, whichever is longer, unless the information has been properly exempted by the equity holding agency under section 3.3(d) of the Order.

(2) *Referred or Transferred Records.* An agency head or senior agency official, either through the agency's declassification plan or within 90 days of the decision, must notify the Director of the Information Security Oversight Office of a decision to delay the onset of automatic declassification for records that have been referred or transferred to that agency. Agencies that have records subject to automatic declassification must identify all equities and refer them to the appropriate agency prior to the date of automatic declassification or, if the information has been properly exempted by the referring agency, prior to the specific date or event for declassification under section 3.3(d) of the Order. Information contained in records that have been referred shall be automatically declassified three years from the date of notification or 28 years from the date of origination of the records, whichever is longer, unless the information has been properly exempted by another equity holding agency under section 3.3(d) of the Order. Agencies receiving a notification of a referral must immediately acknowledge receipt of it. Notifying agencies must follow-up if an acknowledgment is not received within 60 days.

(3) *Newly Discovered Records.* An agency head or senior agency official must notify the Director of the Information Security Oversight Office of any decision to delay automatic declassification no later than 90 days, from discovery of the records. The notification should identify the records and the anticipated date for declassification. An agency has up to three years from the date of discovery to make a declassification, exemption or

## § 2001.31

referral determination. If other agencies' interests or equities are identified in the newly discovered records, those agencies will have three years from the date of notification to complete their review and make a declassification or exemption determination.

(n) *Redaction standard.* Agencies are encouraged but are not required to redact documents that contain information that is exempt from automatic declassification under section 3.3 of the Order, especially if the information that must remain classified comprises a relatively small portion of the document.

(o) *Restricted Data and Formerly Restricted Data.* (1) Records containing Restricted Data (RD) and Formerly Restricted Data (FRD) are excluded from the automatic declassification requirements in section 3.3 of the Order because they are classified under the Atomic Energy Act of 1954, as amended. Restricted Data concerns:

- (i) The design, manufacture, or utilization of atomic weapons;
- (ii) The production of special nuclear material, *e.g.*, enriched uranium or plutonium; or
- (iii) The use of special nuclear material in the production of energy.

(2) Formerly Restricted Data is information that is still classified but which has been removed from the Restricted Data category because it is related primarily to the military utilization of atomic weapons.

(3) Any document marked as containing Restricted Data or Formerly Restricted Data shall remain classified indefinitely or shall be referred to the Department of Energy for a classification review.

## § 2001.31 Systematic declassification review [3.4].

(a) *Listing of declassification authorities.* Agencies shall maintain a current listing of officials delegated declassification authority by name, position, or other identifier. If possible, this listing shall be unclassified.

(b) *Responsibilities.* Agencies shall establish systematic review programs for those records containing information exempt from automatic declassification. Agencies may also conduct systematic review of information con-

## 32 CFR Ch. XX (7–1–08 Edition)

tained in permanently valuable records that is less than 25 years.

## § 2001.32 Declassification guides [3.3].

(a) *Preparation of declassification guides.* Declassification guides shall be prepared to facilitate the declassification of information contained in records determined to be of permanent historical value. When it is sufficiently detailed and understandable, and identified for both purposes, a classification guide may also be used as a declassification guide.

(b) *General content of declassification guides.* Declassification guides shall, at a minimum:

(1) Identify the subject matter of the declassification guide;

(2) Identify the original declassification authority by name or personal identifier, and position;

(3) Provide the date of issuance or last review;

(4) State precisely the categories or elements of information:

- (i) To be declassified;
- (ii) To be downgraded; or
- (iii) Not to be declassified.

(5) Identify any related files series that have been exempted from automatic declassification pursuant to section 3.3(c) of the Order;

(6) To the extent a guide is used in conjunction with the automatic declassification provisions in section 3.3 of the Order, state precisely the elements of information to be exempted from declassification to include:

(i) The appropriate exemption category listed in section 3.3(b) of the Order, and, when citing the exemption category listed in section 3.3(b)(9) of the Order, specify the applicable statute, treaty or international agreement; and

(ii) A date or event for declassification.

(c) *External review.* Agencies shall submit declassification guides for review to the Director of ISOO. To the extent such guides are used in conjunction with the automatic declassification provisions in section 3.3 of the Order, the Director shall submit them for approval by the Interagency Security Classification Appeals Panel. Agencies that have submitted a declassification guide to the ISCAP may use